Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Text

CONFIDENTIAL

PAGE 01 PEKING 00576 170916Z

20
ACTION EA-14

INFO OCT-01 ADP-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12

NSCE-00 SCA-01 PER-05 OPR-02 CPR-02 EB-11 RSR-01 /102 W
---------- 104311
R 170210Z JUL 73
FM USLO PEKING
TO SECSTATE WASHDC 432

C O N F I D E N T I A L PEKING 0576

E.O. 11652: GDS
TAGS: CGEN, PFOR, CH
SUBJ: US-PRC CONSULAR RELATIONS

REF: (A) STATE 97490 (B) PEKING 333 (C) STATE 135443

1. BEFORE PRESENTING MFA WITH DRAFT EXCHANGE OF NOTES (REFTEL C) DEPARTMENT SHOULD BE AWARE THAT TO OUR KNOWLEDGE CHINESE HAVE NEVER RECOGNIZED "CONSULAR" OFFICER AT ANY MISSION IN PEKING. THEY DO NOT, OF COURSE, ADHERE TO OR RECOGNIZE VIENNA CONSULAR CONVENTION.

2. WHEN PRESENT FRENCH CONSUL SUBMITTED PASSPORT FOR PRC VISA HE WAS IDENTIFIED IN PASSPORT IN HIS FUNCTIONAL CAPACITY. CHINESE RETURNED PASSPORT, NOTING THEY HAD ONLY DIPLOMATIC RELATIONS WITH FRANCE, NOT CONSULAR ONES. CONSUL WAS ISSUED NEW PASSPORT IDENTYING HIM AS SECOND SECRETARY OF EMBASSY AND VISA WAS ISSUED. CANADIAN CONSUL HAD SIMILAR EXPERIENCE. HIS PASSPORT IDENTIFIED HIM "AS SECOND SECRETARY AND VICE CONSUL", AND "VICE CONSUL" HAD TO BE DELETED BEFORE PRC WOULD ISSUE VISA. BRITISH AND SOVIETS CONFIRMED SIMILAR RESISTANCE TO USE OF CONSULAR TITLES.

3. IN SUM, WE BELIEVE IT MOST UNLIKELY THAT CHINESE WOULD ACCEPT OR REPLY TO NOTE PROPOSED REFTEL C.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 PEKING 00576 170916Z

4. BRITISH EMBASSY INFORMS US THAT ITS PRACTICE IS TO SEND NOTE

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

IDENTIFYING AN INDIVIDUAL AND STATING THAT HE "WILL ASSUME THE FUNCTIONS OF A CONSUL IN ADDITION TO HIS OTHER DUTIES, IN MATTERS CONNECTED WITH NOTARIAL ACTS, ISSUANCE OF PASSPORTS, AND VISAS, ETC." ATTACHED TO THE NOTE ARE COPIES OF THE INDIVIDUAL'S SIGNATURE AND SEAL OF THE EMBASSY. IN ADDITION, BRITISH AMBASSADOR WRITES LETTER APPOINTING INDIVIDUAL AS A CONSUL AT PEKING "WITH FULL POWER AND AUTHORITY BY ALL LAWFUL MEANS TO AID AND PROTECT HER MAJESTY'S SUBJECTS TRADING IN, VISITING OR RESIDING IN THE PEOPLE'S REPUBLIC OF CHINA".

5. REFTEL A, IN QUOTING CA 6137 OF FEBRUARY 14, 1967, CONCERNING NOTARIAL ACTS STATES THAT TACIT RECOGNITION BY THE RECEIVING STATE OF AN INDIVIDUAL ACTING IN A CONSULAR CAPACITY IS ACCEPTABLE. IF TACITNESS IS ACCEPTABLE, USLO BELIEVES POINT B PARA 2 REFTEL C AND LAST SENTENCE SAME PARA ARE MORE RESTRICTIVE THAN NECESSARY.

6. IN VIEW OF THE ABOVE, USLO RECOMMENDS THAT WORDING FOR THE EXCHANGE OF NOTES BE AS FOLLOWS:

7. BEGIN TEXT. DATE. I HAVE THE HONOR TO INFORM YOU THAT (NAME) AN OFFICIAL OF THE LIAISON OFFICE OF THE UNITED STATES OF AMERICA, AT PEKING, THE PEOPLE'S REPUBLIC OF CHINA, WILL ASSUME THE FUNCTIONS OF A CONSUL IN ADDITION TO HIS DUTIES. (NAME), ALSO AN OFFICIAL OF THE LIAISON OFFICE OF THE UNITED STATES AT PEKING, PEOPLE'S REPUBLIC OF CHINA, HAS BEEN APPOINTED HIS ALTERNATE.

PLEASE ACCEPT, EXCELLENCY, THE ASSURANCES OF MY HIGHEST CONSIDERATION. SIGNATURE. ETC.

8. IF DEPARTMENT BELIEVES THAT ACKNOWLEDGMENT OF NOTE IS NECESSARY, ALTHOUGH CHINESE RARELY ACKNOWLEDGE NOTES OF ANY SORT OTHER THAN VERBALLY, WE BELIEVE WE SHOULD SUGGEST THAT CHINESE BE REQUESTED TO ACKNOWLEDGE ONLY RECEIPT OF THE NOTE.

9. USLO AGREES THAT IT WOULD BE USEFUL FOR THE CONSULAR DUTIES TO BE SPECIFIED IN A SEPARATE MEMO, BUT RECOMMENDS THAT THE ACCOMPANYING MEMO BE REWORDED AS FOLLOWS:

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BEGIN TEXT. IT IS THE UNDERSTANDING OF THE UNITED STATES OF AMERICA THAT ON THE BASIS OF RECIPROCITY, THE DUTIES OF OFFICIALS OF THE LIAISON OFFICE OF THE UNITED STATES OF AMERICA ASSIGNED IN THE PEOPLE'S REPUBLIC OF CHINA WHO, AMONG OTHER RESPONSIBILITIES, ASSUME THE FUNCTIONS OF CONSULAR OFFICERS WOULD ENCOMPASS THE FUNCTIONS NORMALLY CARRIED OUT BY SUCH OFFICERS IN INTERNATIONAL PRACTICE. THESE WOULD INCLUDE, BUT NOT BE LIMITED TO, NOTARIAL SERVICES, PROTECTION OF CITIZENS,

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

ISSUANCE OF VISAS, PROCESSING NORMAL CITIZENSHIP MATTERS
(INCLUDING REGISTRATION OF BIRTHS, DECLARATION OF CITIZENS AND
ISSUANCE OF PASSPORTS) AND ADDITIONAL CONSULAR FUNCTIONS
IN COMMERCIAL SHIPPING MATTERS. END TEXT

10. ALTHOUGH OUR PROPOSED NOTE DOES NOT SPELL OUT WHAT
"PROTECTION OF CITIZENS" IS, USLO BELIEVES THERE WOULD BE AMPLE
GROUNDS FOR COMPLAINT IN FUTURE WITHOUT ATTEMPTING TO DELIMIT EACH
AND EVERY RIGHT. WE ARE RELUCTANT TO INSIST ON SUCH A SPECIFIC
MATTER IN LIGHT OF RECENT HISTORY WHERE CHINESE CLEARLY
IGNORED EFFORTS BY FOREIGN MISSIONS (E.G. BRITISH AND
YUGOSLAVS) TO RENDER ASSISTANCE TO CITIZENS DETAINED BY PRC
AUTHORITIES.

11. SINCE T'EN P'ING POINTEDLY UNDERLINED THAT HIS
PROPOSAL (REFTEL B) SHOULD BE THE BASIS OF A VERBAL AGREEMENT,
USLO BELIEVES THAT THE ABOVE PROPOSAL IS MAXIMUM THAT WE SHOULD
ATTEMPT TO OBTAIN.

12. WE SEE NO REASON TO NAME ADDITIONAL OFFICERS OTHER THAN
BLACKBURN AND LILLEY, SINCE ALTERNATES COULD BE NAMED IN
SUBSEQUENT NOTES FROM THE LIAISON OFFICE, IF REQUIRED.
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Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

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US Department of State
EO Systematic Review
30 JUN 2005

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